

ARMANDO MAJALCA

IBLA 80-241

Decided July 11, 1980

Appeal from a decision of the Arizona State Office, Bureau of Land Management, declaring abandoned and void appellant's lode mining claim, t Silver King. AZ 3833.

Affirmed.

1. Federal Land Policy and Management Act of 1976:  
Recordation of Mining Claims and Abandonment -- Mining  
Claims: Abandonment -- Mining Claims: Location --  
Mining Claims: Recordation

Under 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2(a), the owner of an unpatented mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location with the proper office of the Bureau of Land Management on or before Oct. 22, 1979, or the claim is deemed abandoned and void.

2. Federal Land Policy and Management Act of 1976:  
Recordation of Mining Claims and Abandonment -- Mining  
Claims: Abandonment -- Mining Claims: Location --  
Mining Claims: Recordation -- Notice: Generally --  
Regulations: Generally --Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulation.

APPEARANCES: Armando Majalca, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Armando Majalca appeals from the December 31, 1979, decision of the Arizona State Office, Bureau of Land Management (BLM), returning

without filing appellant's service fee, location notice, map, and affidavit for the Silver King lode mining claim.

The claim was located by Manuel Majalca in 1967. The location notice was filed with BLM after October 22, 1979. Therefore BLM notified appellant that the failure to timely file the notice of location required by 43 CFR 3833.1-2(a) constitutes an abandonment of the mining claim and that under 43 CFR 3833.4 the mining claim is void.

[1] Pursuant to 43 U.S.C. § 1744 (1976), the regulation, 43 CFR 3833.1-2(a) requires in part:

The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands, excluding lands within units of the National Park System established before September 28, 1976, but including lands within a national monument administered by the United States Fish and Wildlife Service or the United States Forest Service, shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law.

The claim having been located on or before October 21, 1976, it was required that the filing be before October 22, 1979.

43 CFR 3833.4(a) mandates: "The failure to file an instrument required by §§ 3833.1-2(a), (b), and 3833.2-1 of this title within the time periods prescribed therein, shall be deemed conclusively to constitute an abandonment of the mining claim, mill or tunnel site and it shall be void."

Thus where the owner of an unpatented mining claim located prior to October 22, 1976, fails to file a notice or certificate of location with the proper BLM office on or before October 22, 1979, his claim must be deemed abandoned and null and void.

[2] Appellant submitted the proper information and instruments after the October 22, 1979, deadline. Prior to that date he had submitted incomplete forms to BLM which were returned. Appellant states that he was not aware of the requirements for proper and timely filing.

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. E.g., Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Charles Caress, 41 IBLA 302 (1979); 44 U.S.C. §§ 1507, 1510 (1976).

Neither the Federal Land Policy and Management Act of 1976 nor the regulations provide for any leeway in the application of the penalty for failure to timely file the required information. We note that even if the information submitted had been timely filed, the claim would still be void because of failure to file by October 22, 1979, an affidavit of assessment work or notice of intention to hold. 43 U.S.C. § 1744 (1976); 43 CFR 3833.2.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Joseph W. Goss  
Administrative Judge

We concur:

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Joan B. Thompson  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge

